U.S. Serial No.: 10/601,611
Filed: June 23, 2003
Group Art Unit: 3763
Examiner: Mendez, Manuel A
Atty. Docket No: 22719-42

REMARKS

Applicants submit this Supplemental Amendment and Response in response to the Office Communication dated December 30, 2005. The Examiner has requested that Applicants provide an explanation of the allowability of new claims 12-15. Accordingly, the previously Amendment and Response has been modified to include such an explanation.

The Office Action dated June 30, 2005 addresses claims 1-11, of which claims 1, 2, and 7-10 stand rejected. The Examiner appears to have overlooked claims 3-6 and 11. Applicant therefore assumes that claims 3-6 and 11 are allowable.

Amendments to the Claims

Independent claim 1 is amended to recite that the barrier is coupled to the sidewall. Independent claim 11 is amended to remove the features of the catheter. Applicants also add new claims 12-15. No new matter is added.

Rejections Pursuant to 35 U.S.C. §112

Claim 8 is rejected pursuant to 35 U.S.C. § 112, second paragraph, as being incomplete for omitting essential elements. In particular, the Examiner submits that the claims lacks structural elements to enable the removal of a barrier by the microprocessor. Claim 8 is amended to clarify how the microprocessor can remove a barrier, thereby obviating the basis for this rejection.

Rejections Pursuant to 35 U.S.C. §102

Claims 1 and 2 are rejected pursuant to 35 U.S.C §102(b) as being anticipated by U.S. Patent No. 3,841,308 of Tate. The Examiner argues that Tate discloses a catheter assembly substantially as claimed. Applicants respectfully disagree.

Independent claim 1 is directed to an implantable fluid management device that includes a catheter having a proximal end, a distal end, and an inner lumen extending therethrough. A plurality of fluid entry ports are formed in a sidewall of the catheter and are in fluid communication with the inner lumen of the catheter. A fluid-impermeable barrier is coupled to the sidewall and occludes selected fluid entry ports. The barrier is selectively removable with respect to each of the selected fluid entry ports.

Tate teaches a catheter with coils that are normally separated to allow for fluid flow (as shown in FIG. 1). The fluid flow can be cut off by applying tension to a wire stylet (element 9 of FIG. 1 and 2) to compact the coils (as shown in FIG. 2). The coils are thus slidably disposed in the catheter and are not coupled to the sidewall of the catheter, as required by independent claim 1 of the present application. Further, Tate does not teach that the barrier is selectively removable with respect to each of the selected fluid entry ports. The coils used in Tate block all of the ports when the coils are compacted and individual ports cannot be selected to have their barrier removed. Rather, when the tension is removed from the stylet, the ports all open in the order that they are located on the catheter.

Accordingly, claim 1, as well as claim 2 which depends therefrom, distinguish over Tate.

Rejections Pursuant to 35 U.S.C. §103

Claims 7-10 are rejected pursuant to 35 U.S.C §103(a) as being anticipated by Tate in view of Huss, Buyers, Hooven, and Yarger. The Examiner relies on Huss to teach a catheter with filters along its longitudinal axis, Buyers to teach a catheter with a filter at its proximal end, and Hooven and Yarger to teach catheters with rows of ports in the distal end. Claims 7-10 depend from claim 1, and therefore distinguish over Tate for the reasons previously discussed. Huss, Buyers, Hooven, and Yarger do not remedy the deficiencies of Tate, as none of these references teaches or even suggests a barrier coupled to a sidewall and occluding selected fluid entry ports which is selectively removable with respect to each of the selected fluid entry ports. Accordingly, claims 7-10 represent allowable subject matter.

New Claims 12-15

New dependent claims 12-14 depend from claim 11. As stated above, the Examiner appears to have overlooked claim 11. Thus, the Applicant assumes that claim 11 is allowable. Accordingly, claims 12-14, which depend therefrom, are also allowable.

New independent claim 15 is directed to an implantable fluid management device that includes a catheter having a proximal end, a distal end, and an inner lumen extending therethrough. A plurality of fluid entry ports are formed in a sidewall of the catheter and are in fluid communication with the inner lumen of the catheter. A fluid-impermeable barrier is coupled to the

sidewall and occludes selected fluid entry ports. The barrier is selectively disintegratable with respect to each of the selected fluid entry ports.

As stated above, Tate teaches a catheter with coils that are normally separated to allow for fluid flow which can be cut off by applying tension to a wire stylet (element 9 of FIG. 1 and 2) to compact the coils (as shown in FIG. 2). Nowhere does Tate teach or suggest using a *disintegrateable* barrier to occlude selected fluid entry ports. Accordingly, claim 15 distinguishes over Tate.

Conclusion

Applicants submit that claims 1-11, as well as new claims 12-15, are now in condition for allowance, and allowance thereof is respectfully requested. The Examiner is encouraged to telephone the undersigned attorney for Applicants if such communication is deemed to expedite prosecution of this application.

Respectfully submitted,

Date: January 5, 2006

Lisa Adams, Reg. No. 44,238
Attorney for Applicant(s)

Nutter McClennen & Fish LLP
World Trade Center West
155 Seaport Boulevard
Boston, MA 02210
Tel: (617)439-2550
Fax: (617)310-9550

1493957.1